

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1291 City of Jacksonville, Duval County
SPONSOR(S): Davis
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Darden	Miller
2) Careers & Competition Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

Florida's Beverage Law places a limit on the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor, for both on and off premises consumption. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses who wish to serve only malt beverages and wine.

The bill would create an exception to general law permitting businesses located inside of or contiguous to the A. Philip Randolph Entertainment District that are licensed to sell alcoholic beverages to patrons for consumption on the licensed premises to sell beverages to patrons for consumption off of the licensed premises during a special event. The bill defines the A. Philip Randolph Entertainment District and a special event by references to the City of Jacksonville Ordinance Code.

The bill shall take effect upon becoming a law.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Beverage Law

The Division of Alcoholic Beverages and Tobacco (Division) within DBPR is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

Under the Beverage Law, DBPR is not limited on the number of licenses it issues to businesses who wish to sell malt beverages or wine; however s. 561.20, F.S., limits the number of licenses that may be issued under s. 565.02(1)(a)-(f), F.S., to one license per 7,500 residents per county with a minimum of three (3) licenses per county that has approved the sale of intoxicating liquors.¹ This license, often referred to as a "quota license," allows a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.²

There are several exceptions to the quota license limitation, and businesses who meet the requirements set out in one of the exceptions pursuant to s. 561.20(2), F.S., may be issued a special license by DBPR that allows the business to serve any alcoholic beverages regardless of alcoholic content.

The sale and consumption of alcoholic beverages generally must occur inside the licensed premises.³ DBPR may approve a temporary expansion of the licensed premises to include a sidewalk or other outdoor area for special events.⁴ The business must pay an application fee of \$100, stipulate the timeframe for the special event, and submit a sketch outlining the expanded premises, and submit written approval from the county or municipality.

Effect of Proposed Changes

The bill would create an exception to general law permitting businesses located inside of or contiguous to the A. Philip Randolph Entertainment District that are licensed to sell alcoholic beverages to patrons for consumption on the licensed premises to sell beverages to patrons for consumption off of the licensed premises during a special event. The bill defines the A. Philip Randolph Entertainment District and a special event by references to the City of Jacksonville Ordinance Code.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

B. SECTION DIRECTORY:

Section 1: Creates an exception to general law, allowing businesses in the A. Philip Randolph Entertainment District authorized to sell alcoholic beverages for consumption on the

¹ Section 561.20(1), F.S.

² Section 565.02, F.S.

³ See s. 561.01(11), F.S. (defining "licensed premises" and requiring written approval from the county or municipality to include a sidewalk or any other outside area as part of the licensed premise).

⁴ Section 561.01(11), F.S.

licensed premises to sell alcoholic beverages for consumption off of the licensed premises during certain events.

Section 2: Provides that the bill shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? February 2, 2017

WHERE? *Financial News & Daily Record*, a daily (except Saturday and Sunday) newspaper published in Duval County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

The definition of the area and the period during which the exemption may apply both incorporate by reference separate ordinances of the City of Jacksonville. This appears to give complete authority to the City to define both the area and the period of exemption. This may violate the doctrine of nondelegation.⁵

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides an exception to “any provision of general law to the contrary.”

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁵ See art. II, s. 3, Fla. Const. (providing for branches of government and stating “no person belonging to one branch shall exercise any powers appertaining to either of the other branches.”). See also *Askew v. Cross Key Waterways*, 372 So. 2d 913, 925 (Fla. 1978) (“Under [the doctrine of nondelegation] fundamental and primary policy decisions shall be made by members of the legislature who are elected to perform those tasks, and administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.”).